HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 958 of 2006

Jati s/o Nakaliram r/o Village Sunhati,
Alahapur, P.s. Jhaberada,
District Haridwar

..Applicants

Versus

1. State of Uttaranchal
2. Vijender s/o Tejpal Singh
Village Sunhari, Alahapur,
P.S. Jhaberada, District Haridwar

.....Respondents

Dated: 29.11.06

Hon'ble Rajesh Tandon, J.

Heard Sri Manish Arora counsel for the applicant and learned A.G.A. for the respondents.

By the present applicant under section 482 Cr.P.C. the petitioner has prayed for quashing of the proceedings of Criminal Case No. 3165 of 2006, State Vs. Sushil and others, under sections 323, 452, 504, 506 I.P.C. pending in the Court of Judicial Magistrate, Roorkee, District Haridwar.

Briefly stated respondent no. 2 has lodged a F.I.R. against the applicant at Police Station Jhaberada under sections 323, 452, 504, 506 I.P.C. The respondent no. 2 has also lodged a F.I.R. against the applicant in Case Crime No. 39-A of 2005 under sections 147, 148, 452, 504, 506, 354 I.P.C. Police Station Jhaberada, District Haridwar. The applicant has alleged that F.I.R. has been lodged by the respondent no. 2 with a motive as to a counterblast the F.I.R. of the applicant. The petitioner has submitted that no offence is made out against him.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. as both the parties will be at liberty to lead the evidence in view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269.

In view of the cross cases between the parties as stated above, interest of justice requires that the bail application of the petitioner may be considered on the same day by the Magistrate concerned and if possible applicant may be released on the personal bond to the satisfaction of the Magistrate concerned.

Subject to the observations made above, application under Section 482 Cr.P.C. is disposed of.

Rajesh Tandon, J.

Dated: 29.11.2006
*Dhyani